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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

ABDUL NEVAREZ and PRISCILLA NEVAREZ,
on behalf of themselves and all others similarly
situated, and SEBASTIAN DEFRANCESCO,

Plaintiffs,

vs.

FORTY NINERS FOOTBALL COMPANY, LLC,
a Delaware limited liability company, et al.,

Defendants.

Case No.: 4:16-cv-07013-HSG

**STIPULATION AND ORDER
REGARDING SUPPLEMENTAL
MONETARY AWARD FOR DAMAGES
CLASS MEMBER MARK KELLEHER**

Before: Hon. Haywood S. Gilliam, Jr.

1 **THIS STIPULATION** is hereby entered into by and between Plaintiffs Abdul Nevarez,
 2 Priscilla Nevarez, and Plaintiff Sebastian DeFrancesco on behalf of themselves and all others similarly
 3 situated, and Defendants Forty Niners Football Company LLC, Forty Niners SC Stadium Company
 4 LLC, Forty Niners Stadium Management Company LLC, the City of Santa Clara and the Santa Clara
 5 Stadium Authority (collectively referred to as the “Parties”), by and through their respective counsel of
 6 record, as follows:

7 **WHEREAS**, on March 9, 2020, the Court preliminarily approved the Parties’ class action
 8 settlement and directed notice to the injunctive relief and damages classes. ECF No. 392.

9 **WHEREAS**, the Settlement Administrator distributed the court-approved settlement notice on
 10 March 30, 2020, informing class members that the deadline for submitting a claim to receive a
 11 monetary award from the settlement fund was June 28, 2020. ECF No. 445.

12 **WHEREAS**, pursuant the Settlement Agreement, Damages Class Members who submitted a
 13 valid and timely claim form were entitled to *pro rata* monetary awards between \$4,000 and \$80,000
 14 based on the number of events for which they were denied full and equal access at Levi’s Stadium
 15 during the class period of April 13, 2015 to March 9, 2020. ECF No. 375-2 (Settlement Agreement §
 16 VIII).

17 **WHEREAS**, pursuant to the Settlement Agreement, the Settlement Administrator conducted
 18 “an assessment of all Claim Forms to determine whether they present valid claims in accordance with
 19 the terms and provisions of [the Settlement] Agreement.” *Id.* (Settlement Agreement § VII.G).

20 **WHEREAS**, if the Settlement Administrator was unable to determine the validity of a claim, it
 21 was required to notify the claimant in writing and provide the claimant thirty (30) days “to supplement
 22 or amend their Claim Form or provide such other information supporting the validity of [their] claim.”
 23 *Id.* (Settlement Agreement § VII.H).

24 **WHEREAS**, the Court granted final approval of the settlement on July 23, 2020. ECF No.
 25 416.

26 **WHEREAS**, the Settlement Administrator completed the agreed-upon initial review by
 27 September 4, 2020, and informed Damages Class Members that any supplemental information
 28 supporting their claims was required to be postmarked or submitted electronically by October 5, 2020.

1 **WHEREAS**, the Settlement Administrator issued settlement checks to all Damages Class
2 Members on July 21, 2021; these checks were valid until July 23, 2022.

3 **WHEREAS**, approximately \$770,000 currently remains in the settlement fund as a result of
4 uncashed settlement checks. ECF No. 375-2 (Settlement Agreement § VIII.B).

5 **WHEREAS**, Mark Kelleher, who is a Damages Class Member and longtime Forty Niners
6 season ticket holder, submitted a valid claim form prior to the June 28, 2020 deadline.

7 **WHEREAS**, despite being a season ticket holder and having attended numerous events at
8 Levi's Stadium during the class period, including both football games and concerts, Mr. Kelleher was
9 credited with attending only four events by the Settlement Administrator.

10 **WHEREAS**, in late 2020 and early 2021, Mr. Kelleher experienced serious health issues that
11 required surgery to remove a brain tumor, among other treatments.

12 **WHEREAS**, due to his medical condition, Mr. Kelleher did not dispute the Settlement
13 Administrator's determination that he had attended only four events at Levi's Stadium during the class
14 period; Mr. Keller received a monetary award of \$15,957.32 based on four visits to the stadium.

15 **WHEREAS**, the Parties agree that Mr. Kelleher attended more than 20 events at Levi's
16 Stadium during the class period, and should have received a maximum award of \$80,000 pursuant to
17 the Settlement Agreement.

18 **WHEREAS**, given the amount of residual funds, the Parties further agree that Mr. Kelleher
19 should receive an additional \$64,042.68 from the Damages Fund to provide him with the monetary
20 award he would have received had he been credited with the number of events he actually attended.

21 **WHEREAS**, the Parties are unaware of any other Damages Class Members who are seeking a
22 supplemental award.

23 **NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED** by and between the
24 Parties that the Settlement Administrator shall issue a check to Mr. Kelleher from the Damages Fund
25 in the amount of \$64,042.68 as a supplemental monetary award pursuant to the Settlement Agreement.

1 Dated: April 26, 2023

Respectfully submitted,

2 GOLDSTEIN, BORGEN, DARDARIAN & HO

3
4 /s/ Andrew P. Lee

Andrew P. Lee

5 Attorneys for Plaintiffs and the Certified Classes

6 Dated: April 26, 2023

RANKIN, SHUEY, RANUCCI, MINTZ, LAMPASONA &
7 REYNOLDS

8
9 /s/ Maria Lampasona

Maria Lampasona

10 Attorneys for Defendants

11 FORTY NINERS FOOTBALL COMPANY LLC, FORTY
12 NINERS SC STADIUM COMPANY, LLC, FORTY
13 NINERS STADIUM MANAGEMENT COMPANY, LLC
CITY OF SANTA CLARA, SANTA CLARA STADIUM
AUTHORITY

14 **SIGNATURE ATTESTATION**

15 The e-filing attorney hereby attests that concurrence in the content of the document and
16 authorization to file the document has been obtained from each of the other signatories indicated by a
17 conformed signature (/s/) within this e-file document.

18
19 Dated: April 26, 2023

/s/ Andrew P. Lee

Andrew P. Lee

20
21 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

22
23 Dated: April 27, 2023



24 Hon. Haywood S. Gilliam, Jr.
United States District Judge